

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

David Lubin,)	
)	
Petitioner,)	
)	Civil Action No. 0:24-cv-6943-BHH
v.)	
)	<u>ORDER</u>
Warden Joseph; FCI Bennettsville;)	
Federal Bureau of Prisons; United)	
States Attorney General,)	
)	
Respondents.)	
_____)	

This matter is before the Court upon Petitioner David Lubin’s (“Petitioner”) *pro se* petition filed pursuant to 28 U.S.C. § 2241. (ECF No. 1.) In accordance with 18 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., the matter was referred to a United States Magistrate Judge for preliminary review.

On December 18, 2024, the Magistrate Judge issued a report and recommendation (“Report”), outlining Petitioner’s claim and finding that Petitioner fails to plausibly allege any error in the Bureau of Prison’s calculation of his sentence. (ECF No. 6.) Accordingly, the Magistrate Judge recommends that the Court dismiss this matter without prejudice and without requiring Respondent to file a return. Attached to the Magistrate Judge’s Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to

which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections to the Report have been filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge’s analysis. **Accordingly, the Court adopts and incorporates the Magistrate Judge’s Report (ECF No. 6), and the Court summarily dismisses this petition without prejudice and without requiring Respondent to file a return.**

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

January 10, 2025
Charleston, South Carolina